

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Edward Bourassa,

Plaintiff,

Case No.

v.

Hon.

City of Taylor, Mayor Rick Sollars,  
Councilmen Herman Ramik, Alex  
Garza, Tim Woolley, Dan Bzura, and  
Councilwoman Angela Croft, in their  
individual and official capacities,

United States District Judge

Magistrate Judge

Defendants.

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**COMPLAINT FOR DAMAGES, DECLARATORY JUDGMENT, AND INJUNCTIVE  
RELIEF AND JURY DEMAND**

This Complaint is brought by Plaintiff Edward Bourassa (“Bourassa”) against Defendant City of Taylor (“City”) and its Mayor and five City Councilpersons for violating his constitutional, civil and contractual rights in terminating his pay without cause.

### **Jurisdiction, Parties and Venue**

1. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, which authorizes federal courts to decide cases concerning federal questions; 28 U.S.C. § 1343(a)(3) and (4), which authorize federal courts to hear civil rights cases; and 28 U.S.C. § 2201, the Declaratory Judgment Act.

2. This Court has jurisdiction pursuant to 28 U.S.C. § 1367 over the state-law claims under the Persons with Disabilities Civil Rights Act, MCL 37.1101 *et seq* (“PWDCRA”) arising from the same core operative facts as the federal questions.

3. Plaintiff Bourassa is a resident of the City of Taylor, County of Wayne.

4. Defendant City of Taylor is a Home Rule Michigan City.

5. Mayor Rick Sollars (“Sollars”), Councilmen Herman Ramik (“Ramik”), Tim Woolley (“Woolley”), Alex Garza (“Garza”), Dan Bzura (“Bzura”) and Councilwoman Angela Croft (“Croft”) are elected public officials and are being sued in their individual capacities for damages and official capacities for equitable relief.

6. Venue is proper in this Court as Defendants conduct their business in the Eastern District of Michigan.

### **Statement of Facts**

7. In November 2013, Bourassa was elected to the position of Treasurer for the City of Taylor for a 4-year term.

8. The Treasurer position was a full-time position paying Bourassa about \$64,000 per year.

9. During his first term Bourassa competently performed all the duties of Treasurer as set forth in the City Charter Section 5.6.

10. In November 2016, City voters approved an ordinance reducing the working hours for the Treasurer position from a full-time to a part-time elected position. The Treasurer's salary was reduced to about \$32,000 per year.

11. Although the Treasurer's position was reduced to part-time, the City never provided Bourassa with a revised list of duties nor did the City ever articulate, orally or in writing, the number of hours he was expected to work as a part-time elected official.

12. In November 2017, Bourassa was likewise elected to his second 4-year term as City Treasurer, now a part-time position.

13. City resident Jean Smith ("Smith") challenged Bourassa for the election to his second term.

14. City Council members Bzura, Woolley and Croft and Mayor Sollars endorsed and actively supported Smith in her effort to unseat Bourassa.

15. At the time Bourassa was elected to his second 4-year term, the Deputy Treasurer, Anna Devoy, was employed by the City on a full-time basis earning approximately \$52,000 per year.

16. The Treasurer's office also employs Tiara Burden and Amanda Knox in clerical positions.

17. The Treasurer and his team of employees provided the taxpayers and citizens of Taylor with high quality, prompt services using state of the art technology designed to deliver accurate and superb customer service.

18. On February 5, 2018, Bourassa began an approved medical leave of absence to have a complete right hip replacement. Bourassa's surgeons estimated that if the surgery went well, he would be unable to ambulate for about 3 months.

19. The surgery was successfully performed on February 8, 2018. However, while exiting the hospital post-surgery on February 9, 2018, hospital personnel dropped Bourassa while he was being loaded into his vehicle causing a serious spinal and nerve injury, which complicated his recovery.

20. Beginning on February 12, 2018, Bourassa continued to perform all his duties as Treasurer remotely from his home while in the recovery phase of his injury and illness.

21. Taxpayers, citizens, City employees or other third parties had

immediate accessibility to Bourassa through a website portal that would open into his home computer.

22. All records that Bourassa needed to perform his duties were available to him on line. Bourassa would usually call back his customers within a matter of minutes after receiving notification through the internet portal.

23. From his home, Bourassa was able to perform the following Treasurer duties:

- a. Bourassa performed all the Customer Response Messages, which are sent automatically from the City servers to Bourassa's cell phone and home computer by the Customer Service Department;
- b. Bourassa addressed all concerns on a regular basis as evidenced by bi-weekly reports generated by Customer Services;
- c. Bourassa received and answered all "Ask the Treasurer Questions" from the City website sent to his cell phone and home computer. All questions have been answered immediately by Bourassa; and
- d. Bourassa's name is on all City bank accounts and his signature appears on all outgoing checks.

24. From February 12, 2018 until December 18, 2018, Bourassa was paid his regular salary for part-time work and during that time performed all the duties of the Treasurer's remotely from home and in a highly competent and efficient manner.

25. From February 12, 2018 until December 18, 2018, Bourassa would periodically discuss business and IT issues with Councilmen Ramik, Woolley and Garza.

26. From February 12, 2018 until December 18, 2018, Bourassa competently performed all the duties of Treasurer as set forth in the City Charter Section 5.6 and as further described above.

27. During the above described time period, Bourassa was able to fully and completely perform all the essential functions of the position of Treasurer.

28. During this same time period and continuing to the day this Complaint was filed, Bourassa suffered from a discernable physical condition caused by injury, which substantially interfered with the major life activity of walking without difficulty.

29. Walking without difficulty is not an essential function of his position as Treasurer.

30. In June 2018, Bourassa advised City management that he intended to come into the office to discuss with representatives of the Information

Technology Department about connectivity issues and to meet with his staff to discuss business needs.

31. Human Resources Director Sheila Gorski-Schulte (“Gorski-Schulte”) advised Bourassa that he was forbidden from coming on any City owned properties while recovering from his surgery and injury because of “insurance concerns.”

32. From February 12, 2018 until December 18, 2018, Bourassa never received a complaint about his job performance from any source. As far as Bourassa was concerned, all tasks were performed in a highly competent and courteous way without anyone expressing a complaint or even a concern.

33. The City has a history of permitting its Treasurer to work remotely.

34. After Wayne Avery (“Avery”) resigned the position of Treasurer in June 2011, the position was vacant for about 10 months.

35. In February 2012, the City Council appointed Lynn Cleary (“Cleary”) to fill the remaining portion of the Avery’s term. Cleary received full time pay and benefits.

36. Cleary had a satellite office in Florida where she had a second home.

37. Throughout most of 2012, City Council permitted Cleary to operate the City of Taylor Treasurer’s office remotely from Florida for extended periods

of time.

38. On January 9, 2019, Bourassa received a letter from Gorski-Schulte, which stated that “[t]his letter is to advise you that per City Resolution #12.666-18, as of January 1, 2019, you are not being paid.”

39. Enclosed in the letter was a copy of the City Council meeting minutes from the meeting held on December 18, 2018. The enactment of the resolution is reflected beginning with pay date January 10, 2019.

40. Resolution #12.666-18 states:

**Motion by: [Councilman] Bzura Supported by: [Councilman] Wooley**  
**Resolved:** To approve to stop payroll to the City Treasurer effective January 1, 2019. Direct Human Resources to send a letter to the City Treasurer advising him of this Council action. City Council will further examine the Treasurer position to determine if a vacancy should be declared per section 4.3 of our City Charter.

Ayes.....: Garza, Woolley, Croft, Ramik, Bzura

Nays.....: Johnson, Patts

**Motion carried**

CCR #: 12.666-18

41. Section 4.3 of the Charter provides:

**Vacancy in Elective Office.**

In addition to other provisions of this Charter, a vacancy shall be deemed to exist in any elective office when such officer fails to qualify within ten (10) days after his election or appointment, fails to perform the duties of his office for a period of ninety (90) days, dies, resigns, or is voluntarily removed or recalled from office, moves from the City, is convicted by a Court of competent jurisdiction of a felony, or

misconduct in office, or is judicially declared to be mentally incompetent.

42. Bourassa was not informed of any deficiencies in his performance and was unaware that the City Council was contemplating the action taken on December 18, 2018.

43. The video record of the December 18, 2018 City Council session reveals that Mayor Sollars falsely stated that Bourassa had abandoned his position as Treasurer.

**Councilwoman Patts:** "I just want to know has he contacted anyone. We don't know as chair people if he has contacted anyone else. Has he contacted you? I'm just curious."

**Mayor Sollars:** "Mr. Chairman, thank you. I just want to speak to that particular question. I don't know who he's talked to or who he hasn't talked to. But what I can tell you after some discussion with the deputy treasurer she said no contact with that office. So, related to the position and the duties, I don't believe there's been any contact in a reasonable amount of time. And you have to remember that there are two very important billing cycles which are the February taxes and the September taxes and that puts a lot of stress on both the department of treasury, assessing and budget and finance. And I don't believe there has been any dialogue with those three departments either."

44. The termination of Bourassa's pay was without cause and motivated by political animus toward Bourassa.

**Count I:**

**Violation of 42 U.S.C. §1983 for Deprivation of Property Rights Without Due Process of Law as Guaranteed by the Fourteenth Amendment**

***Plaintiff v City of Taylor, Mayor Rick Sollars, Councilmen Herman Ramik, Alex Garza, Tim Woolley, Dan Bzura, and Councilwoman Angela Croft, in their individual and official capacities,***

45. Plaintiff incorporates the above allegations by reference here.

46. The Fourteenth Amendment of the United States Constitution guarantees, in part, that no person shall be deprived of “life, liberty, or property, without due process of law.”

47. Plaintiff had a vested property right to the elected position of Treasurer for the City of Taylor from the day he was sworn in in November 2017 to the corresponding November date in 2021 when his term ended.

48. Resolution #12.666-18 constituted a deprivation of Plaintiff’s property by the official action of the City of Taylor, Mayor Rick Sollars, Councilmen Herman Ramik, Alex Garza, Tim Woolley, Dan Bzura, and Councilwoman Angela Croft, in their individual and official capacities.

49. Plaintiff was entitled to notice and a meaningful opportunity to contest the proposed deprivation of his property.

50. Defendants failed to provide Plaintiff with notice or a meaningful opportunity to contest the proposed action.

51. In addition to a deprivation of procedural due process, Bourassa

experienced a substantive deprivation of due process in the nature of lost salary and the real threat that he will be removed from office without any cause or justification and for political reasons.

52. Bourassa had a clearly established right to procedural and substantive due process and Mayor Rick Sollars, Councilmen Herman Ramik, Alex Garza, Tim Woolley, Dan Bzura, and Councilwoman Angela Croft knew or should have known that their actions would violate those rights.

53. The actions of the Taylor City Council constitute an official act violating the procedural and substantive due process rights of Bourassa.

**Count II:**  
**Violation of 42 U.S.C. §1983 by Denial of First Amendment Right to**  
**Political Association/Activities and Speech**  
*Plaintiff v City of Taylor, Mayor Rick Sollars, Councilmen Tim Woolley, Dan Bzura, and*  
*Councilwoman Angela Croft, in their individual and official capacities,*

54. Plaintiff incorporates the above allegations by reference here.

55. At all times relevant hereto, Bourassa enjoyed the protection of the First Amendment of the United States Constitution, which guaranteed his right to political speech and association/activities without fear of retribution or retaliation.

56. Individual Defendants Sollars, Woolley, Bzura and Croft supported Bourassa's opponent for the position of Treasurer.

57. Bourassa's deprivation of due process was motivated by a desire of

the individual Defendants named above to accomplish indirectly what they failed to do directly when they endorsed and supported Smith to defeat Bourassa in a contested election for Treasurer in November 2017.

58. Mayor Sollars made false statements about Bourassa on December 18, 2018 in order to induce the City Council to suspend Bourassa's compensation and to set him up for a permanent position loss.

59. Council members voted in favor of Resolution #12.666-18 in significant part because of Sollars false statement that Bourassa had essentially abandoned the position of Treasurer during the recovery phase of his injury and illness.

60. Bourassa's loss of compensation and his threatened removal was motivated by the named Defendants' political opposition to him.

61. Bourassa engaged in constitutionally protected political association or activities or speech and this protected conduct was a substantial or motivating factor in the decision to take adverse employment action against him.

**Count III:**  
**Violation of Persons with Disabilities Civil Rights Act**  
*Plaintiff v City of Taylor*

62. Plaintiff incorporates the above allegations by reference here.

63. Plaintiff as an elected official of the City is covered by the PWCDRA.

MCL 37.1103(g) and 37.1201(a).

64. The City is an employer within the meaning of the PWDCRA. MCL 37.1201(b).

65. Bourassa meets the definition of a person with a disability because he has a determinable physical characteristic resulting from disease or injury which substantially limits a major life activity (walking) and is unrelated to his qualifications for employment. MCL 37.1103(d)(i)(A).

66. It was unlawful for the City to discriminate against Bourassa because of his disability by depriving him of his compensation without cause or reason.

**Count IV:**  
**Breach of Contract**  
*Plaintiff v City of Taylor*

67. Plaintiff incorporates the above allegations by reference here.

68. When Bourassa was elected to the position of Treasurer and he accepted the position in accordance with the City Charter, a binding contract was formed that guaranteed his entitlement to the position and the compensation approved by the City for the duration of his four-year term unless there existed good cause to declare the position vacant in accordance with the terms of the Charter.

69. Good cause did not exist to declare his position vacant and

therefore the deprivation of the compensation and the threat of loss of the position was in violation of the contract which was formed when he was elected into and accepted the position.

### **Damages and Relief Requested**

70. As a direct and proximate result of the wrongful conduct and breach of contract as alleged above, Bourassa has been deprived of his full pay from November 7, 2017 (day of election) to date of swearing in (3 weeks later) and his part-time pay from January 1, 2019 to the present.

71. Bourassa has also experienced emotional distress, humiliation, embarrassment and mental anguish stemming from the violation of his constitutional rights and deprivation of his civil rights as a person with a disability.

72. Bourassa has been subjected to a reckless disregard of his federally protected rights entitling him to an award of punitive damages.

Accordingly, Bourassa requests the following relief from this Court:

- A. An Order awarding Bourassa compensatory damages in an amount determined by the jury against all the City Defendant and the Individual Defendants in their individual capacities;
- B. An Order awarding Bourassa punitive damages in an amount determined by the jury against the Individual Defendants in their

individual capacities;

- C. An Order awarding Bourassa his actual attorney fees and costs of litigation;
- D. An Order enjoining the City Defendant and the Individual Defendants in their official capacities from carrying out any further deprivation of his property or loss of his duly elected position; and
- E. An Order declaring the actions of City Defendant and the Individual Defendants in their official capacities to be in violation of Bourassa's constitutional and civil rights.

Respectfully submitted,

**PITT McGEHEE PALMER & RIVERS, P.C.**

By: /s/Michael L. Pitt

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Dated: January 29, 2019

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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demand a trial by jury of all of the facts and issues involved in this matter and has paid the appropriate jury fee for same.

Respectfully submitted,

**PITT McGEHEE PALMER & RIVERS, P.C.**

By: /s/Michael L. Pitt

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Dated: January 29, 2019